IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

THE HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.14214 of 2006

Dated: August 22, 2006

Between:

M. Chowdaiah, S/o. M. Venkatesham, 59 years, Retd. Marketing Officer, APCO, Kadapa, R/o. 1.11.478, Arvindanagar Extension, Anantapur.

… Petitioner

And

The Chairman and Appellate Authority, The Andhra Pradesh State Handloom Weavers' Co-operative Society Limited (APCO), Weavers Bhavan, Narayanaguda, Hyderabad, and another.

… Respondents

Order:

Petitioner questions the order dated 11-12-2003, passed by the second respondent in proceedings Ref.No.13/89/Admn-III-2/CO/97/4533, whereby he was awarded punishment of stoppage of two annual grade increments with cumulative effect, besides recovery of an amount of Rs.16,018.80 ps. from him.

2. Heard learned counsel for the petitioner and

Mr. N. Rajeswara Rao, learned Standing Counsel appearing on behalf of the respondent-Society.

3. For the order I propose to pass, merits of the case need not be gone into. The facts of the case, in brief, are that when the petitioner was posted as Export Manager at New Delhi and was kept in-charge of the post of Divisional Marketing Officer, some financial irregularities had taken place. Thereafter, disciplinary proceedings were initiated against him on the ground that he has misappropriated the funds of the Apex Society, disobeyed lawful and reasonable orders of the Managing Director and acted detrimental to the interest of the Society. A domestic enquiry was conducted; a show cause notice was issued to the petitioner and after receiving his explanation, the Vice-Chairman and Managing Director has passed the order dated 11-12-2003 awarding punishment of stoppage of two annual increments with cumulative effect, besides recovery of an amount of Rs. 16,018.80 ps. from him.

4. The case of the petitioner is that as against the said orders passed by the primary authority, there was remedy of appeal to the Chairman of the Society and as such he preferred such appeal on 01-02-2004. His grievance is that no orders have been passed either on the said appeal or on the application filed by him seeking condonation of delay of 25 days. Petitioner alleges that the said punishment has been imposed on him without any valid basis and without conducting proper enquiry.

5. On instructions, Mr. V. Rajeswara Rao, learned Standing Counsel appearing on behalf of the respondent-Society submits that subsequent to the order dated 11-12-2003, further disciplinary proceedings were initiated against the petitioner and final dated 01-12-

2005 was passed dismissing the petitioner from service. As against the said order of dismissal, the petitioner preferred an appeal and the appellate authority by order dated 05-12-2005 allowed the appeal in part by modifying the punishment of dismissal to that of withholding four increments.

He further submits that in the meantime the petitioner was retired from service on 30-06-2005 on attaining the age of superannuation. He further submits that though appeal was filed against the order dated 11-12-2003, this Writ Petition has been filed after petitioner's retirement from service.

6. In the earlier order dated 11-12-2003, the disciplinary authority imposed the punishment of stoppage of two annual increments with cumulative effect besides recovery of an amount of Rs. 16,018.80 ps. initially by order dated 11-12-2003. Though subsequently, the petitioner was dismissed from service and the said order was modified by the appellate authority, the earlier order passed in disciplinary proceedings also will have an impact on the retirement benefits and pension of the petitioner. So far as amount of Rs. 16,018.80 ps. Is concerned, the said amount has already been adjusted while paying retirement benefits to the petitioner.

7. As much as it is not in dispute that the petitioner has preferred an appeal against the order dated 11-12-2003 and so far no communication has been made to him with reference to the said appeal, I dispose of the Writ Petition directing the appellate authority, i.e. the first respondent herein, to consider and dispose of the appeal preferred by the petitioner against the order dated 11-12-2003 within a period of two months from the date of receipt of this order. The said appeal shall be considered and disposed of on its own merits without

being influenced by any of the observations made in the subsequent order of dismissal as modified by the appellate authority or the order of this Court. So far as recovery of an amount of Rs.16, 018.80 ps. which is ordered to be recovered from the petitioner in the impugned proceedings is concerned, the same will be subject to the orders to be passed by the appellate authority/first respondent.

8. The Writ Petition is disposed of with the foregoing observations. There shall be no order as to costs.

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JUSTICE R. SUBHASH REDDY.

August 22, 2006
MRR